THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No. 25262 of 2001

Dated: 01st March, 2006

Between:

B. Madusudhana Rao.

…..PETITIONER

AND

The Government of Andhra Pradesh

Rep by its Secretary to Government

Social Welfare (CV-2) Dept. Secretariat

Hyderabad & another.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE

N.V.RAMANA

W.P.No.25262 of 2001

ORDER:

Assailing the orders issued by the Government in G.O. Ms. No.125, Social Welfare Department, dated 5-11-2001, upholding the orders dated 27-11-1999,

passed by the District Collector, Guntur, canceling the Caste Certificate obtained by the petitioner on the ground that he obtained the same fraudulently, the present writ petition is filed.

The petitioner states that he belongs to Kondakapu caste, which is a Scheduled Tribe Community, and that his father and forefathers, originally belonged to Gajulakollivalasa village in Amudalavalasa Mandal, Srikakulam District. He being a Kondakapu, a Scheduled Tribe, based on the caste certificate obtained by him, he got employment in Bank of India. On a complaint filed by his rivals to various authorities stating that the petitioner belongs to Telaga/Kapu Community and not Kondakapu, a Scheduled Tribe, the Commissioner of Tribal Welfare, without conducting any enquiry and without any authority or power under law, declared that the petitioner does not belong to Kondakapu caste, and directed the respondents-Bank to take action against him. Assailing the said order, the petitioner filed writ petition in W.P. No. 31616 of 1997, and this Court by order dated 15-12-1998 allowed the writ petition, and while quashing the letter of the Commissioner of Tribal Welfare, observed that the respondents are at liberty to enquire into the caste of the petitioner, and pass appropriate orders.

Pursuant thereto, the 2nd respondent conducted enquiry in which the petitioner participated and submitted all the necessary documents, including the caste certificate to show that he belongs to Kondakapu community, but the 2nd respondent without deciding the issue properly and without giving any finding on the social status and caste of the father and mother of the petitioner and without giving any valid and proper reasons, by order dated
27-11-1999 cancelled the caste certificate. The material record and reports referred by the 2nd respondent in his proceedings, were not supplied to the petitioner to enable him to submit explanation. Assailing the order of the 2nd respondent, canceling his caste certificate, he filed appeal under Section 7(2) of the A.P. (Scheduled Castes, Scheduled Tribes & Backward Classes) Issue of Community Certificate Act, 1993 to the 1st respondent, namely the Government, and though initially the 1st respondent stayed the operation of the order dated 27-11-1999 and though the
1st respondent accepted the contention of the petitioner that he belongs to Kondakapu, a Scheduled Tribe, surprisingly declared that the petitioner is not entitled for tribal status on the ground that the petitioner was brought up by his step mother Subbamma who belongs to Telaga community, and vide impugned G.O. Ms. No.125, Social Welfare (CV-2) Department, dated 5-11-2001 confirmed the orders of the 2nd respondent.

Learned counsel for the petitioner contended that the father and mother of the petitioner belong to Kondakapu Caste, is a Scheduled Tribe community, and by reason of the petitioner having born to them, also belongs to Kondakapu community, and merely because he was brought up by some other person, who does not belong to Scheduled Tribe, it cannot be said that the petitioner's caste stood changed. He contended that nowhere either in the Constitution or in the statute, it is provided that

the person who obtains Schedule Tribe caste certificate must suffer the disabilities or the hurdles as a Scheduled Tribe person forever. The petitioner, who belongs to a Scheduled Tribe, cannot be denied the benefit of Scheduled Tribe certificate merely because he was brought up by a woman belonging to Telaga community.

Learned Government Pleader for Social Welfare appearing on behalf of the respondents vehemently contended that there are no procedural irregularities in the conduct of the enquiry, and the 2nd respondent after proper appreciation of the evidence and after giving sufficient opportunity to the petitioner to put forth his case, cancelled the caste certificate of the petitioner. He further submitted that the Government also, had meticulously examined the issue, and as the petitioner failed to substantiate that he belongs to Kondakapu, a Scheduled Caste, upheld the order of the 2nd respondent canceling the caste certificate of the petitioner. He, hence, prayed that the impugned order be sustained and the writ petition be dismissed.

Heard the learned counsel for the petitioner as also the learned counsel for the respondents at length.

The petitioner has himself in his statement before the Scrutiny Committee, which enquired into the social status of the petitioner stated that his father belongs to Kapu and that his mother is a Kondakapu, a Scheduled Tribe, and that soon after his birth, her mother left him, and in those circumstances, he was brought up by another woman. The petitioner, though born to a Scheduled Tribe woman, was brought up in a Telaga community family, who practiced customs different from those practiced by Scheduled Tribes. The petitioner did not place any material before the Scrutiny Community in support of his case that he belongs to Kondakapu, a Scheduled Caste. In matters of enquiry relating to social status of persons, it is for the authorities concerned to give finding on whether a person belongs to a particular community or not. The Scrutiny Committee, having enquired into the social status of the petitioner, upon appreciation of the evidence placed before it, came to the conclusion that the petitioner does not belong to Kondakapu, a Scheduled Tribe, but belongs to Kapu/Telaga community, and the fact that the petitioner belongs to Kapu/Telaga, is evident from the school certificate, though he produced social status certificate subsequently. This court in matters relating to enquiry of social status, cannot re-appreciate the evidence, and come to findings different from that arrived at by the authorities concerned, and say that the petitioner belongs to Kondakapu, a Scheduled Tribe, and more so when the petitioner failed to point out any procedural irregularities in the conduct of the enquiry. The evidence on record clearly indicates that the petitioner belongs to Telaga community, and not Kondakapu, a Scheduled tribe community. In that view of the matter, I find no reason whatsoever to interfere with the impugned G.O. passed by the Government, upholding the order passed the 2nd respondent canceling the caste certificate of the petitioner on the ground that he does not belong to Kondakapu, a Scheduled Tribe, and that he obtained it fraudulently.

The writ petition is devoid of merit, and the same is accordingly dismissed. No costs.

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(N.V. RAMANA, J.)

Date: 1st March, 2006.

GRK